

REMARKS

Claims 1, 4-9, 12-17, 19-25, 27-29, and 31-41 are pending in the Application. Claims 1, 5-6, 8-9, 13-14, 16-17, 20-21, 24, and 35 are currently amended to clarify the present invention as embodied in these claims, and claims 3 and 11 are canceled, without acquiescence in the cited basis for rejection or prejudice to pursue in a related application. Claims 37-41 are new. No new matter has been added.

I. Objection to the Drawings

Figs. 4A-4B and 5 stand objected to for containing incorrect item numerals. In response, Applicants respectfully submit that Figs. 4A-4B and 5 are currently amended in compliance with 37 C.F.R. § 1.121(d) and § 1.84(d) and are believed to have overcome the objection.

II. Rejections of Claims under 35 U.S.C. § 101

Claims 17, 19-24, 29, and 36 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse.

Applicants respectfully submit that “the ‘broadest reasonable interpretation’ that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. According, the *PTO may not disregard the structure disclosed in the specification corresponding to such language* when rendering a patentability determination.” MPEP 2181 citing *In re Donaldson Co.*, 16 F.3d 1189 (Fed. Cir. 1994). Therefore, Applicants respectfully submit that claims 17, 19-24, 29, and 36 are thus believed to have overcome the rejection. Nonetheless, these claims are currently amended to clarify the claimed invention as embodied in these claims. Applicants thus respectfully request withdrawal of rejections and reconsideration of these claims.

III. Rejections of Claims under 35 U.S.C. § 112

Claims 3, 6, and 11 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 3, 20, and 35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully disagree.

Applicants respectfully submit that claim 6 disclose resource consumer groups in some embodiments of the invention. Moreover, each of these claims recites a resource consumer group and what the recited respective resource consumer group is allowed to act. More particularly, Applicants respectfully submit that the Specification of the Application describes several embodiments to support the claimed limitations in these claims. For example, in Fig. 3 and its corresponding text in the Specification, the OLTP group 302 has no plan-imposed limit on the number of concurrently active sessions allowed in some embodiments of the invention. In an alternative embodiment as described on p. 13 of the Specification, a session holding shared resources is always allowed to run in order to avoid deadlock. Moreover, in other embodiments, Figs. 2 and 8 and their corresponding text on p. 24 of the Specification describe that the active session limits for the OLTP group 302 is set to a quiescence value of zero, and thus any new sessions from the OLTP group will exceed the active session limit and will thus be prevented from starting. Claims 3 and 11 are canceled without acquiescence in the cited basis for rejection or prejudice to pursue in a related application.

Applicants therefore respectfully submit that the above examples and embodiments provide clear support for the claimed limitations in some embodiments of the invention. Applicants further respectfully submit that the above examples illustrate several embodiments of the invention and do not intend to limit the scope of the invention or the scope of the respective claim as such. Applicants thus respectfully request withdrawal of the rejections and reconsideration of these claims.

IV. Rejections of the Claims under 35 U.S.C. § 112, second paragraph

Claims 3, 5, 11, 20, and 35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In response, Applicants respectfully submit that claims 5, 20, and 35 are currently amended to clarify the claimed invention as embodied in these claims, and claims 3 and 11 are canceled, without acquiescence in the cited basis for rejection or prejudice to pursue in a related application. Applicants thus respectfully request withdrawal of the rejections and reconsideration of these claims.

V. Rejections of the Claims under 35 U.S.C. § 102(e)

Claims 1, 5, 8-9, 13-14, 16-17, 27, and 31-35 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,430,619 (hereinafter Sitaraman.) Applicants respectfully traverse.

Claim 1 recites at least the following limitations. Claims 8-9, 16-17, 21, and 24 also recite similar limitations.

wherein the first resource plan and the second resource plan are *adapted in order to allow one or more third resource consumer of a third group to start a new activity* by respectively preventing the first resource consumer from starting a new activity and by allowing zero or more second resource consumer to continue an already-running activity; and

(Emphasis added.)

The Office Action cites to Figs. 3-4 and the corresponding text of Sitaraman and purports that the cited passages and figures disclose the above claimed limitation of claim 1. Applicants respectfully disagree.

Fig. 3 of Sitaraman shows the maintenance of a list for the purpose of identifying domains or customer groups which have subscribed to VPN access. In Fig. 3, each domain has associated with a number (network maximum sessions) of VPN sessions that the domain is ordinarily entitled to. Col. 5, ll. 41-47. Each domain is further associated with another number (network absolute maximum sessions) which indicates how many sessions the domain may actually get before denial of service. Col. 5, ll. 62-64. In Sitaraman's approach, a domain will be denied of service if the number of absolute maximum sessions is exceeded. Col. 6, ll. 55-58. Fig. 4 shows local databases which are associated with multiple PoPs and operate much like the central database 38 in Fig. 3. Col. 6, ll. 14-21.

Applicants respectfully submit that this is not however the claimed limitations. Claim 1 explicitly recites that "the first resource plan is adapted to prevent the first resource consumer and to allow the second resource consumer so as to allow . . . newly initiated active sessions of a second group to complete operation". (Emphasis added.) In contrast, in Sitaraman's approach,

there is **no correlation** between the establishment and management of the numbers of active sessions of different domains. That is, Sitaraman's approach does not prevent a first domain from starting new VPN sessions **such that newly initiated VPN sessions of a second domain are allowed to start operation from the first domain.**

Therefore, Applicants respectfully submit that Sitaraman does not disclose at least the above claimed limitations of claims 1, 8-9, 16-17, 21, 24, and their respective dependent claims and thus may not be used to preclude their patentability under 35 U.S.C. § 102(b).

VI. **CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 3-4, 6-7, 11-12, 15, 20, 25, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sitaraman. Applicants respectfully traverse.

Applicants respectfully submit that, as presented immediately above in the preceding section V, Sitaraman does not disclose at least the aforementioned limitations of the independent claims from which claims 3-4, 6-7, 11-12, 15, 20, 25, and 29 depend, and thus Sitaraman cannot be used to preclude the patentability of these claims under 35 U.S.C. § 103(a).

CONCLUSION

Based on the foregoing, all remaining claims are believed in condition for allowance. If the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. 50-4047, referencing billing number 7010984002. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. 50-4047, referencing billing number 7010984002.

Respectfully submitted,



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By: _____

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